

III. REMARKS

Status of the Claims

Claim 20 is amended. Claims 3-11, 13, and 15-20 are presented for further consideration.

Applicant has amended the claims to clarify the novel features of the invention for which protection is sought in this application. No new matter is presented.

Applicant has considered the Examiner's comments set forth in the Office Action mailed November 16, 2007 and responds in detail below.

Reconsideration of the application is respectfully requested in view of the amendments and the following remarks.

The Office Action and Responsive Remarks

Claims 3-6, 15, 17 and 20 stand rejected under 35USC103(a) on the basis of the cited reference Prior (EP000913977A2) in view of the cited reference Yang, U.S. Patent No. 6,658,274. This rejection is traversed on the following grounds:

The combined teaching of Prior and Yang does not render claims 3-6,15,17, and 20 obvious because it fails to teach or otherwise suggest each and every limitation of the claims. It is well settled that in order to establish a prima facie case for obviousness, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, without reference to the disclosure of this application. (MPEP Section 2142) ***In re Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). See MPEP § 2143 - § 2143.03 for decisions pertinent to each of these criteria.***

Claim 20 states as follows:

"second functional elements placed on an upper end surface or side surfaces of the shell, wherein said second functional elements comprise various function keys, wherein at least one of said function keys is a push to talk key;

"third functional elements placed on a rear surface of the shell, wherein said third functional elements comprise at least a second speaker and a second microphone; and

"wherein said first and second functional elements cooperate to provide a first user interface for normal use of the radio telephone for cellular communications, and said third and second functional elements cooperate to provide a second user interface for use when said first functional elements are obstructed, said second user interface being connected to provide walkie-talkie communications and wherein said first user interface and said second user interface operate independently and each of said first and second interfaces further comprises means for voice communication operatively associated with said first and second speakers and microphones.

The combined teaching of Prior and Yang fail to disclose or suggest first and second user interfaces in which the first user interface is adapted to be used in a mobile communications function and the second user interface is adapted to be used in a walkie-talkie communication function, the second user interface including a push to talk button as part of the second functional elements.

Although the Examiner now acknowledges that the teaching of Prior fails to disclose a speaker and microphone on the back of the telephone, it is still maintained that there are independent interfaces available for use in the system of Prior. Contrary to the Examiner's assertion, there is no mention in the cited reference Prior, that a second interface is provided.

Prior shows in figure 6: "alternative user interface features". The reference also describes a user interface "input" 60. In this manner, a number of user interface components are described throughout the cited reference, that are accessible from the

rear of the cell phone, but they are all used to manipulate the "actual" display that is on the front of the cell phone. According to Prior, this provides a number of advantages, for example as described at column 6, lines 13-24.

"Primarily, it enables the user to hold the handset and control the display information in one hand. It is advantageous to have a separate touch screen to the actual display as the display will not get dirty and its content obscured by dirt or the user's hand. Moreover, in single handed use, a user interface input on the front of the phone require thumb operation, whereas such an input on the rear can be operated by a forefinger, which is smaller and more agile than a thumb, and thus provides greater accuracy."

Clearly this indicates that Prior intended to have only one user interface with which to operate the cell phone and not two as in the subject invention. The aim of the solution of Prior is to arrange the input means of a single user interface, such that manipulating the content on the display is easier.

The components of the user interface of Prior, placed on the back face are just extended parts of a single user interface and do not operate independently. When the interface features on the front of the handset of Prior are obstructed, the handset is not operable. This is not the case with respect to the mobile telephone described in new claim 20 now under consideration. In the subject application, the third functional elements provide a means, with said second functional elements to operate the radio telephone when the first functional elements are obstructed. Such obstruction frequently occurs when the radio telephone is mounted in a carrier.

The aim of the present application is to enhance the usability of a radio-telephone. This problem is solved by creating two distinct user interfaces, which can be used in different operating conditions. The first user interface is employed, when the user holds the phone in hand. The second user interface is used in situations, where the first functional elements (including the display) of the phone are obstructed. This is the situation e.g. when the phone is placed on a carrying means and the front surface of

the shell is facing the users shoulder, as shown in figure 3. According to the invention, the second user interface does not comprise a display.

In the description of Prior, et al. It is stated that there is provided:

“a user interface comprising a display and input means responsive to a user to manipulate the contents of the display; wherein the display is provided on the front face and the input means on the rear face” (column 1, lines 25-29).

Thus Prior et al. does not suggest that there are two user interfaces, but only one. Since the input means on the rear face in Prior are used to manipulate the contents on display on the front face, it is clear that the display and the input means both belong to the same user interface. Therefore there only one user face in the disclosure of Prior, contrary to the claims of this application.

Also, in Prior, an on/off button 4 is located on the upper part of the front surface of the shell (see figure 1). The upper part of the front surface is not the same thing as the upper surface of the shell, as stated in claim 20. In the subject application, the upper surface refers to an upper end surface of the shell (see page 4, lines 27-29 of the description).

The Examiner further asserts that figure 2 of Prior discloses keys on the side surface of the shell. This is not supported by the description, in which there is no mention of any such keys. Applicant submits, in light of similar telephone products on the market, that it is probable, the markings on the side surface of the shell are meant to illustrate notches for fixing the phone to a car holder.

Therefore, Prior does not disclose any keys on the upper end or side surfaces, only a headset connector (or its cover 41) as shown in figure 4. Therefore the reference Prior fails to disclose or suggest “second functional elements” as required by claim 20. Since

there are no second functional elements, there can be no push to talk button as required by the claims as amended.

There is nothing in the disclosure of Prior to suggest a dual function telephone that provides two user interfaces, one of which is adapted for mobile communications and the other of which is adapted for walkie-talkie communications.

The disclosure of Yang, relates to a multitude of arrangements of user interfaces which provide dual mode operation from the front or back of a mobile telephone. None of the fifty three preferred embodiments, however, are adapted in anyway for walkie-talkie communication and none of these embodiments have second functional elements positioned on the top or side surfaces of the mobile telephone. Again there is no push to talk button.

The combined teaching of Prior and Yang does not disclose or suggest all of the limitations of claim 20, as amended.

Claim 7 stands rejected under 35USC103(a) on the basis of the reference Prior in view of Yang and further in view of the reference Davidson, et al, U.S. Patent No. 5,841,855. Claims 8-11 stand rejected under 35USC103(a) on the basis of the reference Prior in view of the reference Yang and further in view of the reference Bannister (2012199). Claim 13 stands rejected under 35USC103(a) on the basis of the reference Prior in view of the reference Yang and further in view of Gordon, U.S Patent No. 5,884,156. Claim 16 stands rejected under 35USC103(a) on the basis of the reference Prior in view of the reference Yang and further in view of the cited reference Fishman, U.S. Patent No. 5,655,017. Claims 18, and 19 stand rejected under 35USC103(a) on the basis of the reference Prior in view of the reference Yang and further in view of "what is well known in the art".

The above rejections rely on the combined teaching of Prior and Yang. These

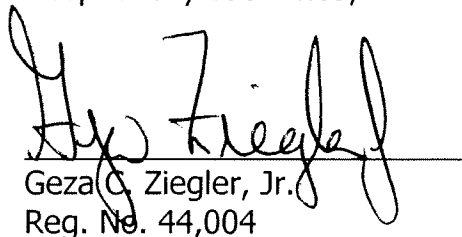
rejections are therefore traversed based on the same comments expressed above. The cited references Davidson, Gordon, Bannister, "what is well known in the art", and Fishman, taken alone or in combination fail to remedy the deficiencies of the combined teaching of Prior and Yang. The Examiner has therefore failed to present a prima facie case of obviousness. The modification of the teachings of Prior or Yang, Davidson, Bannister, or Gordon, or Fishman in order to obtain the invention, as described in the claims submitted herein, would not have been obvious to one skilled in the art.

These grounds apply equally to the rejected dependent claims, all of which, by dependency, have the limitations described in independent claim 20. None of the cited references remedy the deficiencies of the primary combined teaching of Prior and Yang.

For all of the above reasons, it is respectfully submitted that all of the claims now present in the application are clearly novel and patentable over the prior art of record, and are in proper form for allowance. Accordingly, favorable reconsideration and allowance is respectfully requested. Should any unresolved issues remain, the Examiner is invited to call Applicants' attorney at the telephone number indicated below.

The Commissioner is hereby authorized to charge payment for the three month extension of time (\$1020) as well as any other fees associated with this communication to Deposit Account No. 16-1350.

Respectfully submitted,


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15 May 2007
Date

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09/885,186

Response to the office action dated November 16, 2006

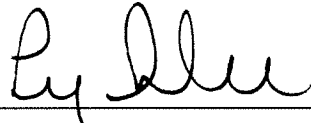
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